

M. ROBERT KESTENBAUM, LLC  
PATENT AND TRADEMARK MATTERSRECEIVED  
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MAR 23 2005

## FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Attention: Director, Technology Center 2100	M. Robert Kestenbaum
COMPANY:	DATE:
Commissioner for Patents	MARCH 23, 2005
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(703) 872-9306	11
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(571) 272-3744	(H) 01PH0419 USP
RE:	YOUR REFERENCE NUMBER:
Petition and Issue Fee Payment	10/018,721

## NOTES/COMMENTS:

Attention: Director of Technology Center 2100

We are faxing the issue fee payment with a Petition to Withdraw Holding of Abandonment Based On Failure to Receive Office Action. We never received the Notice of Allowance, and therefore, did not pay the issue fee. An affidavit from our docketing clerk is included with this petition, together with a copy of the docket record and calendar where the non-received Notice of Allowance would have been entered. A copy of the Notice of Abandonment is also included herewith.

Please withdraw the abandonment and credit the issue fee for this case.

Thank you in advance.

Sincerely,

M. Robert Kestenbaum  
Reg. No. 20,430

11011 BERMUDA DUNES NE  
ALBUQUERQUE, NEW MEXICO USA 87111  
PHONE (505) 323-0771  
FAX (505) 323-0865

Received 7 pages. page 7 is not completely printed. CH

Missing  
4 pages.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: US Patent Application 10/018,721  
Filed April 22, 2002  
Applicant Meyer-Grafe  
Art Unit 2125  
Examiner  
Examiner's Telephone (571) 272 3744  
Examiner's Fax (703) 872 9306  
Attorney Docket (H)01PH0419USP

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MAR 23 2005

Attention Technology Center 2100  
PO Box 1450  
Commissioner for Patents  
Alexandria, Va. 22313-1450

Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office  
Action under MPEP 711.03(c) II  
Affidavit for Non-Receipt of Official USPTO Correspondence, Namely Notice of  
Allowance

Dear Director of Technology Center 2100:

We learned that this application was abandoned when we received a Notice of  
Abandonment mailed February 2, 2005. We contacted the Examiner. He advised us that  
the case had been allowed on September 28, 2004, and the Notice of Allowance was  
mailed on September 30, 2004. He faxed us a copy of the Notice of Allowance.

The Attachment to the Notice of Abandonment noted that if we had not received  
the official communication from the USPTO, we should fax a Petition to Withdraw  
Holding of Abandonment Based on Failure to Receive an Office Action under  
MPEP 711.03(c)II and 37 CFR 1.181, and if the Office granted this petition, the Office  
Action would be re-sent. Since the Examiner faxed us a copy of the Notice of  
Allowance, we do not need to have the Notice of Allowance re-mailed to us. Rather, we  
have included herewith the required Issue Fee payment, with this Petition to Withdraw  
the Holding of Abandonment.

Meyer-Grafe (H) 01PH0491USP US Patent Application 10/018,721  
Request to Withdraw Holding of Abandonment and Issue Fee Payment  
Submitted on March 23, 2005

1

Applicant hereby attests that the Notice of Allowance mailed September 30, 2004 was never received, and a search of the file jacket and docket records indicates that the Notice of Allowance was not received.

An affidavit supporting the statement of non-receipt, is submitted with this Issue Fee Payment.

Respectfully submitted,



M. Robert Kestenbaum  
Reg. No. 20,430  
11011 Bermuda Dunes NE  
Albuquerque, New Mexico 87111  
Phone (505) 323-0771  
Fax (505) 323-0865

I hereby certify this correspondence is being submitted by facsimile transmission to Commissioner for Patents, Alexandria, Virginia on March 23, 2005, fax number (703) 872-9306.



M. Robert Kestenbaum

10/018,721  
Meyer-Grafe  
(H) 01PH0419USP

### Attachment A

I, Heidi M. Ortiz, hereby attest that I am the docket clerk in the office of M. Robert Kestenbaum. It is my duty to receive and docket incoming correspondence, and track its submission to the USPTO on a timely basis.

It is my standard procedure to collect, sort, and log correspondence on a daily basis AS SOON AS IT ARRIVES. My docketing system is based upon logging incoming correspondence as it is received. When I receive correspondence, I log it into my docketing sheets (see page A). The first column ("Mailed") notes when correspondence is mailed from the USPTO. I note the "Mailed" date from the USPTO. I then note the date the response is due in the "Due Date" (next to the last column) on the docketing sheet. I also note the due date and details on the calendar that I use to keep track of due dates.

Please note the line where I have written in an arrow on page A from my docketing log, showing that there is not an entry for a Notice of Allowance mailed on September 30, 2004. This indicates that the Notice of Allowance was not received from the USPTO. I am also enclosing the corresponding page from the calendar that I use to keep track of due dates, which indicates no Issue Fee payment for this case was logged in the calendar for December 30, 2004.

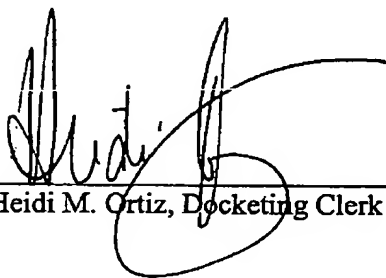
I KNOW THAT THE NOTICE OF ALLOWANCE FOR US PATENT APPLICATION 10/018,721 WAS NOT RECEIVED IN OUR OFFICE, BECAUSE IT WAS NOT LOGGED AS RECEIVED IN THE DOCKETING SHEET, NOR WAS IT LOGGED IN THE CALENDAR. THEREFORE, IT WAS NEVER RECEIVED IN OUR OFFICE.

10/018,721  
Meyer-Grafe  
(H) 01PH0419USP

I know that this docketing system works for our office, because I have been using it successfully for ten years.

For this application, I enclose a copy of our docketing sheet, as well as a copy of the appropriate page from our calendar. Also enclosed with this affidavit is the response that was required to the original Notice of Allowance (i.e., the Issue Fee payment).

I hereby declare that all statements made herein on my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
Heidi M. Ortiz, Docketing Clerk

March 23, 2005  
Date



## PUMPKIN FOLDER ACTION ITEM CHECK LIST

Mailed	Docket #	Inventor	Action	Comments	IR?	Due Date	Done ?
5-18-04	(R) I1-US	Freiburg	IF	(Due August trans)		8-18-04	7-24-04
5-25-04	(R) 02HEL0249	USP Neiland	IF & PF	(Due August trans)		8-20-04	9/10
5-24-04	(E) 99023 PMS	Schuster	IF & PF	(Due July Trans)		7-24-04	8-21-04
						8-24-04	
1-29-04	02HEL0249	S. Licht	IF & PF	(Due Sept Trans)		9-29-04	9/27

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